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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/752,232	01/06/2004	James P. Lattari	WD-314J	4777
7590 Iandiorio & Teska 260 Bear Hill Road Waltham, MA 02451-1018				
EXAMINER				
MORAN, KATHERINE M				
ART UNIT		PAPER NUMBER		
3765				
MAIL DATE		DELIVERY MODE		
03/26/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/752,232

Applicant(s)

LATTARI, JAMES P.

Examiner

Katherine Moran

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Applicant's response of 12/12/07 has been received and reviewed. Applicant amended claims 1-3, 9, and 15-17. Claims 1-17 are pending.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

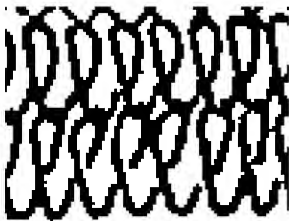
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 7-9, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by DuBois (U.S. 1,250,150). DuBois discloses the invention as claimed. DuBois teaches a glove 1 comprising a glove portion made of mesh material, wrist portion also made of mesh material, and an elastic element 7 attached to the wrist portion in the form of a single coiled spring at least twice as wide as it is thick, to improve comfort. It is noted that lines 67-71 teach that the glove may include one or more coils of resilient wire. Each coil of the spring has a width parallel to a plane defined by the glove portion and a thickness perpendicular to the plane of the glove portion and to the width of the coils, wherein the width is wider than the thickness is thick to improve comfort. Each coil extends parallel to the plane of the glove portion for the width of the spring and then turns perpendicular to the plane of the glove portion for the thickness of the spring. Applicant's Figure 4 shows the width of the coil as extending from the point where the

Art Unit: 3765

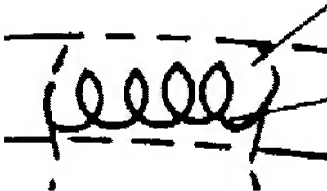
coil take a rounded turn to a point at the lower region of the coil. A portion of DuBois' coil has been enlarged and pasted below. The thickness of the coil is represented by the rounded turn region. It can be seen that DuBois' coil is equivalent to that claimed by the Applicant. The turn of each coil is rounded and the coiled spring is made from metal wire. The coiled spring is circumferentially disposed around the wrist portion of the glove and is therefore welded at each end so as to form a closed loop. The coils of the spring extend through the terminal links of the wrist portion.



3. Claims 1-4, 7, 12-15, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by van Marwijk et al (U.S. 5,862,521). van Marwijk discloses the invention as claimed. van Marwijk teaches a glove 1 comprising a glove portion made of mesh material, wrist portion 5 also made of mesh material, and an elastic element 4 attached to the wrist portion in the form of a metal coiled spring with coils of each spring each having a width parallel to a plane defined by the glove portion and a thickness perpendicular to the plane of the glove portion and to the width of the coils, wherein the width is at least twice the thickness is thick. Each coil extends parallel to the plane of

Art Unit: 3765

the glove portion for the width of the spring and then turns perpendicular to the plane of the glove portion for the thickness of the spring. Applicant's Figure 4 shows the width of the coil as extending from the point where the coil takes a rounded turn to a point at the lower region of the coil. The thickness of the coil is represented by the rounded turn region. A portion of van Marwijk's coil has been enlarged and pasted below. It can be seen that van Marwijk's coil is equivalent to that claimed by the Applicant. The glove includes a forearm portion 2 with a single elastic element 4 (Figure 1) in the form of a metal coiled spring wider than it is thick. One coiled spring is attached to the wrist portion on one end thereof and to the forearm portion on the other end thereof.



Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over DuBois '150. DuBois discloses the invention substantially as claimed. However, DuBois doesn't teach that there are between 9 and 11 coils per inch, with the width of each coil between .5 and 1 inches and the thickness of each coil is between .2 and .3 inches. A review of Applicant's disclosure does not reveal any criticality for the number of coils per inch between 9 and 11. Therefore, it would have been obvious through routine experimentation to provide DuBois' coil spring with between 9 and 11 coils per inch to provide a predetermined level of elasticity while enabling the glove to be stretched over a user's hand and conform to the wrist. With regard to claim 6, the claimed values for the width and thickness of each coil are rejected for the same reasoning as set forth in the rejection of claim 5.

6. Claims 10, 11, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over DuBois in view of Cutshall (U.S. 5,231,700). DuBois discloses the invention substantially as claimed. However, DuBois doesn't teach the coiled spring is color coded with different colors to indicate different glove sizes. Cutshall teaches a glove 10 having the wrist portion color-coded to indicate glove size (see claim 2). It would have been obvious to one of ordinary skill in the art to color code the wrist portion or coiled spring of DuBois as taught by Cutshall in order to visually identify differently sized gloves. Regarding the recitation of claim 11, "complies with the 21 CFR 175.300", this is considered a product by process limitation. MPEP 2113 states that even though the product by process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of the product does not

depend on its method of production. If the product is the claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the product was made by a different process. The Patent Office is not equipped to manufacture products by the myriad of processes put before it, obtain prior art products and then make physical comparisons.

Response to Arguments

7. Applicant's arguments have been considered. Applicant submitted that DuBois and van Marwijk fail to disclose any dimensional relationship between width and thickness. It is noted that Applicant's claims do not define the extent of the width dimension of each coil. Is the coil considered to be one complete revolution of the spring? Applicant's specification recites reference number 18 as the coil and Figure 4 shows element 18 pointing to a transitional portion in which a length of the spring extends up, loops around, and extends down. Applicant's drawings illustrate the width as the distance from top to bottom of each individual coil, and the thickness of the coil as the length or extent of the coil at its top rounded end (the portion which is perpendicular to the wearer's wrist). However, the claims do not recite the thickness or width of the coil as it pertains to specific portions of the coil. The claims have been amended to relate the coils of the spring as having a width parallel to a plane defined by the glove and a thickness perpendicular to the plane of the glove portion and to the width of the coils. The Examiner's position is that the coils of the spring inherently have a width and a thickness and the glove has a plane which is parallel to the width of the

coil and a thickness perpendicular to the plane. The position of the plane has not been defined in relation to specific portions of the glove. Thus, one could designate a plane extending from an upper portion of the glove to a lower portion of the glove, at an angle which is parallel to the width of the coil and perpendicular to the thickness of the coil. The Examiner agrees that neither Dubois nor van Marwijk discuss the dimensional relationship between width and thickness. However, the drawings of both Dubois and van Marwijk illustrate this relationship.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Katherine Moran at (571) 272-4990. The examiner can be reached on Monday-Thursday from 8:30 am to 6:00 pm, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch, may be reached at (571) 272-4996. The official and after final fax number for the organization where this application is assigned is (571) 273-8300. General information regarding this application may be obtained by contacting the Group Receptionist at (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kmm

March 14, 2008

/Katherine Moran/
Primary Examiner, Art Unit 3765